



The Birmingham News

Affidavit doesn't prove politics sparked probe of Siegelman, Davis says

Thursday, June 21, 2007

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WASHINGTON - An Alabama woman's claim that the president's top political adviser knew about a Justice Department investigation of former Gov. Don Siegelman does not prove that the prosecution was politically motivated, U.S. Rep. Artur Davis said.

But the Birmingham Democrat who serves on the congressional committee investigating undue political influence on federal prosecutors said the statement raises questions about possible political considerations made in the investigation.

Jill Simpson, a lawyer in Rainsville, gave a sworn statement saying she witnessed a conversation between top aides to Gov. Bob Riley's 2002 campaign about how White House adviser Karl Rove had discussed the federal investigation of Siegelman with one of them. Riley, a Republican, beat Siegelman, a Democrat, in the gubernatorial race that year.

Specifically, Simpson says that Riley advocate and longtime GOP operative Bill Canary said during a November 2002 phone call that "Karl had spoken with the Department of Justice and the Department of Justice was already pursuing Don Siegelman," according to her written affidavit.

The Birmingham News had reported 10 months earlier that state and federal prosecutors were investigating Siegelman as part of their investigation into his administration.

'Desperate act':

In a recent interview, Davis said Simpson's statement, even if true, does not prove Rove ordered prosecutors to pursue Siegelman. Her written affidavit has not been filed in court.

"All Jill Simpson can testify to is what she says a bunch of people said during a phone conversation. Rove never came on the line," said Davis, a former federal prosecutor. "That's why the affidavit doesn't tell you that much. You're not going to get to the bottom of what Rove did unless Rove is willing to come and sit before that committee and answer questions."

Davis also vouched for the statements by Canary and his wife, U.S. Attorney Leura Canary. Bill Canary has called Simpson's statement a "desperate act." Leura Canary, appointed to the post by Bush, stepped down from the Siegelman investigation in May 2002 because of her husband's ties to the Riley campaign.

The case was then handled by assistant Steve Feaga and acting U.S. attorney Louis Franklin, who have said that Leura Canary was not involved in the decision to indict Siegelman in 2005.

"If Billy Canary says he didn't call Karl Rove, I believe that. If Leura Canary says she recused herself from the case, I believe that," Davis said.

The White House so far has declined to let Rove testify publicly on Capitol Hill. A White House spokesman

Wednesday declined to comment on the affidavit because it is related to an ongoing criminal case.

Siegelman's defense attorneys, who are preparing for his sentencing next week in Montgomery, have said Simpson's affidavit could show the case against Siegelman was motivated by political considerations. A federal jury in Montgomery last summer convicted Siegelman on seven of 32 counts, including bribery, conspiracy, obstruction of justice and honest services mail fraud. He had been under investigation for several years.

Questions raised:

While Siegelman continues his battle in the courtroom, his case has not yet risen to the level of political scandal in other cases from around the country that has captured the attention of Congress. Congress has held multiple hearings on whether the Department of Justice under President Bush used political considerations in pursuing, or not pursuing, certain types of cases involving Democrats.

So far, the only member of Congress to publicly raise the Siegelman case in that context is Davis. He briefly questioned Attorney General Alberto Gonzales about it in May, before the Simpson affidavit was reported by Time magazine and The New York Times.

Davis said the Simpson affidavit does raise questions in the context of the overall national investigation. Davis received a copy of the affidavit Wednesday and said he was forwarding it to the House Judiciary Committee, which had not yet seen it.

Siegelman, in an e-mailed response Tuesday, said he planned to provide Davis and the committee copies of the Simpson affidavit, which was dated May 21.

Davis said he would like to know who in Washington gave the go-ahead for federal prosecutors in Montgomery to indict a former governor; whether prosecutors fully investigated allegations of juror misconduct based on alleged e-mail conversations among them during deliberations; and why prosecutors are seeking a 30-year prison term, which he believes is exorbitant.

Feaga and Franklin have said Rove had no role in the Siegelman investigation, and that Department of Justice officials in Washington, after being initially reluctant to pursue the case, agreed to the indictments in 2005. Franklin, in a written statement June 6, said he consulted with career prosecutors in the Public Integrity Section of the Department of Justice but the final decision to continue the investigation was his.

Regarding the alleged e-mails among the jurors, the federal judge in the Siegelman case said he could not verify their authenticity and he did not agree to a new trial because of them, as defense attorneys had asked.

'Very bizarre result':

As for the recommended sentence of 30 years, Davis said it was excessive for a case where the jurors acquitted Siegelman on more counts than they convicted.

"I try to make it a practice to not second-guess jury verdicts, so I won't do that," Davis said. "It's just my opinion as a former lawyer and prosecutor that to give a 30-year sentence when the jury rejected 90-some percent of the factual claims in the case, that would strike me as a very bizarre result."

Franklin said the recommended sentence was based on federal sentencing guidelines.

Davis, who has asked for a no-confidence vote on Attorney General Gonzales, said he believed the House Judiciary Committee would at least consider looking at Siegelman's case at some point.

"Certainly Congress has a legitimate oversight concern into whether the Department of Justice has become so politicized that it can no longer live up to its name," Davis said. "All these allegations floating around out there are part of that process." Staff writers Kim Chandler and Brett J. Blackledge contributed to this report. morndorff@bhamnews.com